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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

In re N.L., a Person Coming Under the
Juvenile Court Law.

B232201

THE PEOPLE,

(Los Angeles County
Super. Ct. No. TJ19118)

Plaintiff and Respondent,

v.

N.L.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County,
Charles R. Scarlett, Judge. Affirmed.

Jonathan E. Demson, under appointment by the Court of Appeal, for Defendant
and Appellant.

Kamala D. Harris, Attorney General, Dane R. Gillette, Chief Assistant Attorney
General, Lance E. Winters, Assistant Attorney General, Steven D. Matthews and
Analee J. Brodie, Deputy Attorneys General, for Plaintiff and Respondent.

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N.L. appeals an order declaring him a ward under Welfare and Institutions Code section 602 based on the finding he committed robbery and his admission he discharged a firearm with gross negligence. (Pen. Code, §§ 211, 246.3, subd. (a).) On appeal, he claims the evidence is insufficient to support the finding he committed a robbery in which a wallet, a cell phone and an MP3 player were taken. However, appellant was detained approximately half an hour after the robbery and two blocks from the scene. He generally matched the description of one of the robbery suspects and he had the victim's cell phone and MP3 player. He told the arresting officer he found the property in an alley. The juvenile court concluded the robber would not have discarded the property in an alley so soon after the commission of the offense and sustained the robbery allegation. We find the evidence sufficient to support the juvenile court's finding and affirm the order under review.

FACTS AND PROCEDURAL BACKGROUND

1. Evidence presented at the adjudication/motion to suppress.¹

Walter A. testified that on June 15, 2010, he was on his way home from school and was waiting with a friend at a bus stop on Century Boulevard near Western Avenue in Los Angeles. A group of six black male youths crossed the street and approached them. One asked where they were from and whether they binged. When Walter A. said he did not, one or perhaps two of the males told Walter A. and his friend to empty their pockets. One male reached into Walter A.'s pockets and removed his cell phone, wallet and MP3 player. The group then walked away. Walter A. testified he does not remember what any of the males looked like, he does not recognize anyone in court and he has never identified anyone involved in the robbery.

On June 15, 2010, Los Angeles Police Officer Alan Shiao received a radio call regarding four or five black male suspects. An additional broadcast indicated one of the suspects was at 98th Street and Hobart Boulevard wearing a red plaid vest. As Shiao

¹ The juvenile court simultaneously adjudicated the robbery allegation and heard a motion to suppress appellant's statements to law enforcement officers.

turned onto 98th Street from Western Avenue, approximately two blocks from the scene of the robbery, Shiao saw appellant “wearing a red-and-black multi-colored shirt.” Appellant “seemed to be in a hurry” and was “grabbing his pants pockets.” Shiao stopped appellant at approximately 2:30 p.m. and asked if he had anything Shiao should know about. Appellant responded he had “a phone and an iPod” he found in an alley. Appellant was sweating and appeared nervous. Shiao searched appellant and found Walter A.’s cell phone and MP3 player.

Shiao testified the shirt appellant is wearing in a booking photograph is multi-colored with diamond shapes of blue, red, yellow, purple and black and dollar signs. It does not appear to be red plaid.

Los Angeles Police Detective Steven Henry testified that, after he advised appellant of his rights under *Miranda v. Arizona* (1966) 384 U.S. 436 [16 L.Ed.2d 694], appellant first stated he found the property in an alley but eventually admitted he took the property from “a Spanish kid [and] was going to sell [it].”

Appellant testified at the hearing on the suppression motion. He admitted he initially lied to the detective but later told the truth in order to obtain leniency in court.

2. The juvenile court’s rulings.

The juvenile court granted appellant’s motion to suppress his statements to Detective Henry but denied appellant’s motion to suppress his statements to Officer Shiao. In argument related to the suppression of appellant’s statements to Shiao, the juvenile court agreed with defense counsel’s assertion appellant was not wearing a red plaid vest. The juvenile court stated: “We know that because we saw the pictures of it. It was something that we could reasonably misinterpret to be plaid if somebody was looking at it.”

After suppressing appellant’s confession, the juvenile court noted the remaining issue was whether someone would take a cell phone and an MP3 player in a robbery committed 30 or 45 minutes earlier “and then throw it away” The juvenile court sustained the robbery allegation finding appellant’s statement to Shiao was not credible and “all the evidence points to the fact that he’s the one [who] committed the robbery.”

CONTENTION

Appellant contends the evidence may be sufficient to sustain an allegation of receiving stolen property, but is not sufficient to permit the juvenile court to conclude appellant committed the robbery.

DISCUSSION

When reviewing a challenge to the sufficiency of the evidence, an appellate court views the record in the light most favorable to the judgment below to determine whether it discloses substantial evidence to support the verdict. (*Jackson v. Virginia* (1979) 443 U.S. 307, 319 [61 L.Ed.2d 560]; *People v. Johnson* (1980) 26 Cal.3d 557, 576.) “The standard of proof in juvenile proceedings involving criminal acts is the same as the standard in adult criminal trials.” (*In re Cesar V.* (2011) 192 Cal.App.4th 989, 994; *In re Jose R.* (1982) 137 Cal.App.3d 269, 275.)

“ “It is settled that when a person is shown to be in possession of recently stolen property slight corroborative evidence of other inculpatory circumstances which tend to show guilt supports the conviction of robbery.” [Citation.]’ [Citations.]” (*People v. Gamble* (1994) 22 Cal.App.4th 446 453; accord *People v. Mendoza* (2000) 24 Cal.4th 130, 176.)

Here, the robbery occurred while Walter A. was on his way home from school. Officer Shiao detained appellant at 2:30 p.m., two blocks from the scene of the robbery. He was walking away from the scene of the robbery, he seemed to be in a hurry and he was “grabbing at his pants pockets.” Appellant had in his possession two of the three items taken from Walter A. and he told Officer Shiao he found the property in an alley.

The juvenile court found appellant’s proffered explanation was not credible. The false statement and the fact appellant essentially was fleeing the scene of the robbery demonstrated consciousness of guilt, which provided some corroboration of appellant’s possession of Walter A.’s recently stolen property such as to warrant the conclusion appellant committed the robbery. (See *People v. Avila* (2006) 38 Cal.4th 491, 563; *People v. Garrison* (1989) 47 Cal.3d 746, 773; *People v. Kimble* (1988) 44 Cal.3d, 480, 496; *In re Pratt* (1980) 112 Cal.App.3d 795, 931 [circumstances giving rise to an

inference of consciousness of guilt may be sufficient corroboration of accomplice testimony]; *People v. Hurd* (1970) 5 Cal.App.3d 865, 876 [flight constitutes an implied admission which may constitute sufficient corroboration of accomplice testimony].)

Further corroboration is found in the fact appellant matched the description of one of the robbery suspects, i.e., a black male wearing a red plaid vest. Although appellant was not wearing a red plaid vest, he was wearing a multicolored, diamond pattern shirt which the trial court found reasonably could be misconstrued as plaid. Thus, in addition to his false statement to Officer Shiao and his flight from the scene, appellant's appearance generally matched the description of one of the robbery suspects and thus corroborated his possession of Walter A.'s recently stolen property so as to permit the inference appellant committed the robbery.

Appellant argues the fact he was apprehended with only two of the three items taken in the robbery shows the robber must have given at least one item to someone else. Thus, appellant might have only received the stolen property from the individual who robbed Walter A. He claims his false statements, nervousness and flight from the scene are as consistent with receiving stolen property as with having committed the robbery.

This argument misconstrues the prosecution's burden. Where the defendant is in possession of recently stolen property which was taken in a robbery and that possession is corroborated, even slightly, by evidence tending to connect the defendant to the commission of the robbery, the trier of fact is permitted to conclude the defendant committed the robbery. (See *People v. Mendoza, supra*, 24 Cal.4th at p. 176; *People v. Gamble, supra*, 22 Cal.App.4th at p. 453.) The fact the evidence also may be consistent with some lesser offense, such as receiving stolen property, does not prevent conviction of the greater offense.

In sum, given all the facts presented, including appellant's appearance, his apparent flight from the scene and his statement to Officer Shiao, there is no *reasonable* chain of events which would account for appellant's having Walter A.'s property in his possession very shortly after it was taken in a robbery, unless he were one of robbers. We therefore affirm the juvenile court's finding that appellant committed the robbery.

DISPOSITION

The order declaring appellant a ward of the juvenile court is affirmed.

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KLEIN, P. J.

We concur:

KITCHING, J.

ALDRICH, J.